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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,140	04/24/2001	Damien Kessler	PU010005	6046

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EXAMINER

CZEKAJ, DAVID J

ART UNIT	PAPER NUMBER
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2621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/841,140

Applicant(s)

KESSLER ET AL.

Examiner

Dave Czekaj

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

On page 9, applicant argues that Chen fails to disclose simultaneously receiving a first and second video stream. While the applicant's points are understood, the examiner respectfully disagrees. See for example Chen figure 4. There Chen illustrates receiving two streams at the same time, or simultaneously. Chen further discloses in column 54-60, receiving a main stream and an insertion stream. The sections of Chen indicated in applicant's arguments deal with the processing, not the reception, of the streams which does not have to be simultaneous. Therefore the rejection has been maintained.

On page 9, applicant argues that Chen fails to disclose seamlessly incorporating the first video program and the second video program into packetized data. While the applicant's points are understood, the examiner respectfully disagrees. See for example Chen column 6, lines 50-54. There Chen discloses forming an output stream with the insertion stream seamlessly spliced into the main stream. Therefore the rejection has been maintained.

On page 10, applicant argues that there is no motivation to combine Desai and Chen. While the applicant's points are understood, the examiner respectfully disagrees. Chen discloses in column 1, lines 40-50, that a number of time consuming steps are required for inserting commercials into streams. Hence, Chen discloses an apparatus trying to reduce the number of steps needed to perform these operations. Since both

references are within the same field of endeavor and contain similar subject matter, the combination is deemed proper. Therefore the rejection has been maintained.

On page 12, applicant argues that apparatus recited in claim 2 is not well known and is not proper subject matter for a rejection based on Official Notice. While the applicant's points are understood, the examiner respectfully disagrees. See for example Chen figure 4. There Chen illustrates a video buffer manager for managing the buffers containing sufficient video data to match the time for switching the streams. Therefore the rejection has been maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-8, 11-15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al. (6034746), (hereinafter referred to as "Desai") in view of Chen et al. (5917830), (hereinafter referred to as "Chen").

Regarding claims 1 and 19, Desai discloses an apparatus that relates to information handling systems (Desai: column 1, lines 6-9). This apparatus comprises "receiving encoded data representing a first video program having a first resolution" (Desai: column 4, lines 1-5, wherein the first video program is the data stream), "receiving encoded data representing a second video program of a second resolution lower than the first resolution" (Desai: column 4, lines 5-12,

wherein the second video program is the commercial), "generating transmission identification information for signaling a transition from the first display program to the second display program" (Desai: column 5, lines 1-10, wherein the identification information is the commercial insert points), "incorporating the first and second video program and identification information into packetized data" (Desai: column 4, lines 23-29, wherein the packetized data is the program stream), and "providing the packetized data for output to a transmission channel" (Desai: figure 1, wherein the packetized data is output over the network. However, Desai fails to disclose simultaneously receiving and seamlessly incorporating the first and second streams. Chen teaches that inserting commercials into streams requires a number of time-consuming steps that must be implemented with additional hardware (Chen: column 1, lines 40-50). To help alleviate this problem, Chen discloses "simultaneously receiving a second video stream" (Chen: figure 4, wherein the second stream is the insertion stream) and "seamlessly incorporating the first and second stream" (Chen: column 6, lines 48-54). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Desai and add the processing taught by Chen in order to obtain an apparatus that operates more efficiently by reducing the time needed to insert commercials into a stream.

Regarding claim 2, Chen discloses "a buffer which holds and outputs sufficient video data to match the time for switching the first and second streams" (Chen: figure 4).

Regarding claims 4 and 11, Desai discloses "the second video program is a video commercial" (Desai: column 4, lines 5-12).

Regarding claims 5-7 and 12-14, although not disclosed, it would have been obvious to provide the video data such as a news program from a network feed and local video program (Official Notice). Doing so would have been obvious in order to make the system more versatile by being able to transmit video to a user if one of the local/network feeds is down.

Regarding claims 8 and 15, although not disclosed, it would have been obvious to transmit the data via satellite (Official Notice). Doing so would have been obvious in order to obtain an apparatus that can safely and reliably transmit data.

Claims 3, 9-10, 16-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al. (6034746), (hereinafter referred to as "Desai") in view of Chen et al. (5917830), (hereinafter referred to as "Chen") in further view of Sakamoto et al. (6026164), (hereinafter referred to as "Sakamoto").

Regarding claims 3 and 10, note the examiners rejection for claim 1, and in addition, claims 3 and 10 differ from claim 1 in that claims 3 and 10 further require upconverting the video data. Sakamoto teaches that it is difficult to effect scrambling without changing the code length (Sakamoto: column 2, lines 1-3).

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To help alleviate this problem, Sakamoto discloses "upconverting the decoded second resolution data" (Sakamoto: figure 9, wherein the upconverting is the up-sampling). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the upconverting taught by Sakamoto in order to obtain an apparatus that operates more efficiently by being able to scramble the data and keep the code length constant.

Regarding claim 9, note the examiners rejection for claim 1 and in addition Sakamoto further discloses "decoding the video program to provide a decoded first resolution data and a decoded second resolution data" (Sakamoto: figure 9, wherein the first resolution data is the HDTV data and the second resolution data is the SDTV data).

Regarding claims 16-17, Sakamoto discloses "storing data in a buffer" (Sakamoto: figure 9).

Regarding claim 18, Sakamoto discloses "the buffer is MPEG compliant" (Sakamoto: figure 9, column 1, lines 47-49).

Regarding claim 20, note the examiners rejection for claims 1 and 4.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Mon-Thurs and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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DJC

Mehrdad Dastouri

MEHRDAD DASTOURI
SUPERVISORY PATENT EXAMINER

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